IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.12.2006

CORAM

THE HONOURABLE Mr. JUSTICE A.C.ARUMUGAPERUMAL ADITYAN

Civil Revision Petition (NPD) No.927 of 2004
and
C.M.P.No.7226/2004 and VCMP.No.75 of 2006

1. C.Kannan
2. C.Natarajan
3. S.Vijayalakshmi
4. S.Premkumar
5. S.Devi
6. S.Selvan .... Petitioners/ Appellants

Vs.

M.Jeyakumari ... Respondent/ Respondent

Civil Revision Petition is filed under Section 25 of the Tamil Nadu Buildings(Lease and Rent Control)Act against the fair and decretal order dated 24.3.2004 in M.P.No.806/2002 in RCA No.882/2002 on the file of learned Rent Control Appellate Authority, (VIII Judge, Court of Small Causes), Chennai

For Petitioners : Mr. R.Ramanlaal

For respondent : Mr. A.Elango

O R D E R

This civil revision petition has been preferred against the order passed in M.P.No.806/2002 in RCA No.882/2002 on the file of learned Rent Control Appellate Authority,(VIII Judge, Court of Small Causes) Chennai. The said application was filed under Section 11(4) of the Tamil Nadu Buildings(Lease and Rent Control) Act directing the tenant/appellants to deposit the admitted arrears of rent of Rs.18,750/- at the rate of rent Rs 150/- per mensum from October 1993 to February 2004.

2. The learned counsel appearing for the revision petitioners would contend that before the trial court in RCOP.No.2776 of 1995, the defence taken by the tenants is that they are in possession of the petition schedule properpty as the owners of the property and

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not as a tenants under the respondent/landlord and hence the learned counsel would contend that the order passed by the appellalte authority directing the tenants to deposit the arrears of rent is against the provisions of law. The learned counsel would contend that in an eviction petition filed under Section 11(4) of the Tamil Nadu Buidlings(Lease and Rent Control) Act , an order directing the tenants to deposit the arrears of rent pending RCA is not maintainable.

3. Per contra, the learned counsel appearing for the respondent would contend that the defence taken by the tenants as to the ownership of the land has been negatived by the learned appellate authority, and under such circumstances,, the tenants cannot be heard to contend that they have not bound to deposit the arrears of rent in a petition under Section 11(4) of the said Act.

4. The learned counsel appearing for the revision petitioners relied on S.Jayalakshmi and others-v- S.P.Padmavathi(2000)3 M.L.J.581) and contended that in an application under Section 11 (4) , the status of the tenants is very much in issue and till they are adjudicated as tenants, there can be no question of calling upon them to deposit whatever is lawfully due within the meaning of section. The above said dictum squarely applies to the present facts of the case also because already the rent controller has come to a conclusion that the revision petitioners are the tenants under the respondent/landlord and ordered eviction on the ground of wilful default , denial of title and also under subletting. Even at paragraph 9 of the above said dictum , it has been observed by the learned Judge of this Court as follows:

> "The Rent Controller held that the respondents therein have committed wilful default and accordingly ordered eviction on13.3.1998. Aggrieved by the orders passed by the Rent Controller in R.C.O.P.No.2506 of 1996, Jayalakshmi and others, namely, the petitioner herein preferred RCA NO.285 of 1998. That was dismissed on 31.3.1999 holding that without depositing the arrears, the appellants therein cannot prefer the appeal.

Under such circumstances, I do not find any infirmity or illegality in the order passed by the learned appellate authority in M.P.No.806/2002 in RCA NO.882/2002 on the file of the Appellate authority(VIII Judge, Small Causes Court,) Chennai.

5. The learned counsel appearing for the revision petitioners at this juncture, made a request to extend time for depositing the admitted arrears of rent of Rs.18,750/- as ordered by the learned appellate authority.

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6. In the result, this civil revision petition is dismissed. The revision petitioners are directed to deposit the arrears of rent of Rs.18,750/- as well as future rent upto December 2006 on or before 10.1.2007. The rent control appellate authority need not be carried away by any of the observations made by this Court in this order while deciding RCA No.882 of 2002.No costs. Consequently,connected C.M.P.No.7226 of 2004 and VCMP No.75 of 2006 are also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sg

To

1. The Registrar
Small Causes Court,
Chennai

2. The VIII Judge,
Small Causes Court,
Chennai.

1 cc to Mr.A. Ilango, Advocate, sr. 61483

CRP.NPD.NO.927/2004
C.M.P.No.7226/04 and
VCMP.No. 75 of 2006

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